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SUBJECT: KABILA SHAKES UP MAGISTRACY

REF: KINSHASA 644

¶1. (SBU) Summary: President Joseph Kabila, in a series of official decrees dated July 15, dismissed and retired over 100 magistrates and judicial officers, including the President of the Supreme Court and the Prosecutor General of the Republic, for corruption and other abuses of office. The dismissals follow Kabila's June 30 Independence Day warning (reftel) that he would take immediate action against corruption within the justice sector. Kabila also nominated over 700 other judicial officers, including replacements for the President of the Supreme Court and Prosecutor General. Although the dismissal decrees appear to have been issued following proper interim procedures, it is unclear if the consultative chambers actually met to produce the charges and if the judicial oversight council provided the accused with an opportunity to appeal the decisions. One of the two most senior replacements, Kabange Numbi, is an ethnic Luba from Katanga, and likely to be under some influence from the presidency. End summary.

¶2. (SBU) The law establishing the composition and function of the supreme judicial oversight body CSM ("Conseil Supérieur de la Magistrature" in French) was passed by Parliament and signed by Kabila on August 5, 2008. The internal rules and structures are still being formed. The CSM disciplinary chambers authorized by the law have not yet been created. In their place, the CSM directorate ("bureau" in French) and general assembly meet and provide recommendations to the head of state for disciplinary action. Embassy sources indicate that the directorate and general assembly did meet independently prior to the issuance of the decrees, but it is unclear if the names were generated by the two CSM bodies and forwarded to the presidency or if the presidency provided the names for pro forma approval by the two CSM bodies. Only the final list approved by the presidency has been published.

¶3. (SBU) Kabila dedicated almost one quarter of his taped June 30 Independence Day message (reftel) to the administration of justice in the DRC. He criticized the judicial branch as corrupt and issued a thinly veiled threat to take immediate action against the magistracy in his role as the "guarantor" of Congolese institutions. The dismissal decrees were issued two weeks after the June 30 message was broadcast.

¶4. (SBU) The dismissals and nominations of judicial officers come more than a year after Kabila dismissed 92 judges and appointed over 100 others in February 2008. Among the February 2008 winners were Etienne Roger Tinkamanyire, President of the Supreme Court, and Ndi Mushagalusa Ntayeza, Prosecutor General of the Republic. Both have been ordered into retirement by the July 15 decrees. Tinkamanyire, a Hema from Oriental's Ituri District, will be replaced by Bemwezi Kienga, a Rega from South Kivu, and Ntayeza, a Shi from South Kivu, will be replaced by Kabange Numbi, a Luba from Katanga. Local press reports July 29 that Kienga and Numbi were sworn in on July 27.

¶5. (SBU) Comment: Kabila has been under increasing pressure from

NGO's and the international community to take action against human rights violators in the wake of increased armed group and FARDC atrocities against civilians. Kabila's action against the magistrates may be an attempt to show, to audiences both domestic and international, his commitment to the fight against impunity by taking on corruption and abuse of office. The justice sector is poorly funded and resourced, which contributes to the high level of corruption within the magistracy. The addition of a Katangan at the top of the judicial pyramid will likely reinforce executive influence within the judiciary. End comment.

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